REMARKS

Applicant thanks the Examiner, Mr. Philip J. Sobutka, for his courtesies extended during the telephonic interview conducted on December 1, 2005, and for his assistance in advancing prosecution on the merits of the present application. Independent claim 1 was discussed during the telephonic interview, wherein the Examiner indicated that an amendment to the claims to indicate that the "common channel" is a CDMA defined common channel would appear to overcome the art of record. Consequently, Applicant has added independent claims 92-97, which correspond to independent claims 1, 16, 17 and new independent claims 89-91, respectively. Claims 92-97 recite that the common channel is a "common CDMA channel". Support for this limitation may be found at pg. 6, lines 5-20 of the specification. No new matter has been added. Therefore, these claims are patentable for the following reasons presented with respect to independent claims 1, 16 and 17 and 89-91, respectively. The following remarks expand and add to the substance of the telephonic interview.

Applicant acknowledges, with appreciation, the allowance of independent claim 16, and the indication that claims 6, 8-11, 22-25, 31-34, 39, 41-49, 54, 60, 67 and 77-88 contain allowable subject matter. Claims 1-99 are now pending, with claims 1, 16, 17, 89-97 being the independent claims. Claims 89-97 have been added. Claims 16, 17 and 23 have been amended. The amendments to the claims clarify the wording of the claims, and are cosmetic in nature. No new matter has been added. Reconsideration of the application is respectfully requested.

In the Office Action dated June 30, 2005, independent claims 1 and 17, and dependent claims 2, 4, 13-15, 19, 26, 50, 52, 56, 58, 62, 63, 65, 69, 70, 73, 76 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,275,487 ("*Szalajski*"), while claims 3, 27, 51, 57 and 64 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Szalajski* in view of U.S. Patent No. 6,347,083 ("*Noshino*"). Dependent claims 5, 7, 12, 18, 20, 21, 28, 30, 35, 37, 38, 40, 53, 55, 59, 61, 66, 68, 71, 72, 74, 75 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Szalajski* in view of U.S. Patent No. 6,498,785 ("*Derryberry*"). Lastly, dependent claims 29 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Szalajski* in view of *Noshino*, and further in view of U.S. Patent No. 6,498,785 ("*Derryberry*"). For the following reasons, it is respectfully submitted that all claims of the present application are patentable over the cited references.

Szalajski discloses a method of measuring the signal strength of a downlink broadcast control channel (BCCH) carrier at mobile stations in a cell adjoining the cell in which the BCCH carrier is broadcast (see col. 2, lines 1-7). Measurements are made by the mobile station such that the system can determine when to perform a handover between mobile stations (see col. 2, lines 7-15). *Szalajski* (col. 1, lines 39-44) teaches that the BCCH carrier is divided into timeslots to comprise traffic channels which are used to transmit user data and speech, and a common logical BCCH which is used to transmit general information to all mobile stations in the cell.

Szalajski (col. 5, lines 52-58 and col. 6 lines 3-6) teaches that the transmission of the BCCH carrier is controlled such that the power at which the time slots of the logical traffic channels are transmitted can also be controlled, and that the power at which the time slots of the common logical BCCH is transmitted is constant.

Szalajski (col. 3, lines 40-54) teaches that the power of the transmission of the logical traffic channels can be varied without affecting measurements used for handover decisions by arranging the mobile stations in the adjoining cell to measure the signal strength of the BCCH carrier when the common logical BCCH is transmitted.

The Office Action (pg. 7) states:

> Szalajski teaches a method of controlling power with which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising the step of transmitting said information in said common channel, wherein information intended for different second stations are transmitted at different power levels (Szalajski see col 2, line 56- col, line 20).

The foregoing statement, in effect, alleges the BCCH carrier of *Szalajski* is analogous to the common channel of independent claim 1. However, Applicant respectfully asserts that the common channel recited in independent claim 1 is fundamentally distinct from the BCCH carrier of *Szalajski*.

Page 6, line 17-20 of Applicant's specification states that "a mobile station will receive all the packets sent on the common FACH channel and is able to identify the packets which are intended for it from the information identifying the mobile station". This is the definition of a common channel that a person having the ordinary level of skill in the art would readily understand. In other words, a common channel is a channel over which transmitted information can be received by any mobile station, regardless of whether the information is specifically intended for a specific mobile station. The concept of a common channel is old and well known,

and is widely used in the field of wireless communications, and is therefore well understood to the person skilled in the field of wireless communications.

Granted, a frequency carrier itself can be a common channel, provided all the mobile stations are able to receive all the information sent on that frequency carrier. However, it is clear from *Szalajski* that the BCCH carrier is not configured to operate in this manner.

Szalajski discloses a carrier having a mixture of common and traffic channels multiplexed thereon. The difference between common and traffic channels is well known to those skilled in the art, and they are also clearly distinguished in *Szalajski*. For example, *Szalajski* (col. 1, line 39-41) states that "the uplink BCCH carrier ... generally supports a logical traffic channel (TCH) which is used to transmit user data or speech and a logical random access channel (RACH)". *Szalajski* (col. 1, lines 45-53) further states, the "downlink BCCH carrier ... supports one or more traffic channels multiplexed onto one or more physical channels and the following signaling channels ... [including] a logical broadcast control channel (BCCH) which supplies to all mobile stations general information on the network". In view of this, it clear that the carrier in *Szalajski* is not purely a "common channel", but has multiplexed onto it a number of different channels.

A person possessing the ordinary level of skill in the art would clearly appreciate that a "traffic channel" (as used in *Szalajski)* is not a common channel (as recited in claim 1). In particular, *Szalajski* states that the traffic channel is for user data and speech. It is clear from *Szalajski* that this information is not placed on a common channel, where it can be received by all mobile stations due to the private nature of the information. However, a person skilled in the art would appreciate that the "logical BCCH" is a common channel, because its information can be received by all the mobile stations. Consequently, the logical BCCH of *Szalajski* is analogous to the common channel of claim 1, but the actual BCCH carrier and the traffic channels are not the same as the common channel of claim 1.

Based on this distinction, *Szalajski* fails to anticipate claim 1. This is best understood with reference to Fig. 1 and *Szalajski* (col. 5, line 55-56), which clearly states that the time slots labeled IT0, IT3, IT6 are the BCCH time slots that constitute the logical BCCH, and that these time slots "are transmitted with constant power". As stated previously, a person having the ordinary level of skill would clearly appreciate that the logical BCCH is a common channel. Conversely, *Szalajski* (col. 6, lines 3-6) also states that the time slots labeled IT1, IT2, IT4, IT5, IT7 and IT8 are transmitted with a power that can be controlled, and that these timeslots support

logical traffic channels. Thus, a person skilled in the art would clearly appreciate that the logical traffic channels are not common channels, as discussed above. Therefore, since claim 1 recites that information ... is transmitted in the common channel ... at different power levels, *Szalajski* does not anticipate claim 1. In *Szalajski*, only the traffic channels are transmitted at different power levels.

It is essential for the system in *Szalajski* to transmit the common logical BCCH at a constant power because the common logical BCCH controls the handover process. If the logical BCCH were not transmitted at a constant power, then handovers would not occur at the correct moment as a mobile terminal moves from cell to cell. Therefore, it is not obvious to extend the teachings associated with the invention disclosed in *Szalajski* so as to develop a system in which control of the power of the logical BCCH is possible. In view of the foregoing, *Szalajski* fails to teach the common channel recited in independent claim 1. Consequently, reconsideration and withdrawal of the rejection under 35 U.S.C. §102 are in order, and a notice to that effect is requested.

Noshino relates to an apparatus applicable to a CDMA system for controlling the transmission power of a mobile communication terminal (see col. 1, lines 9-11). *Noshino* fails to cure the deficiency of *Szalajski*, since *Noshino* fails to teach that "information intended for different second stations [is] transmitted at different power levels" in the common channel recited in independent method claim 1. As a result, the combination of *Szalajski* and *Noshino* fails to teach the invention recited in independent method claim 1.

Derryberry relates to a method and apparatus for power control on a channel that is shared by multiple mobile stations transmitting to base stations in a telecommunication system (see col. 4, lines 17-20). *Derryberry* also fails to cure the deficiency of the system defined by the combination of *Szalajski* and *Noshino*, since *Derryberry* also fails to teach that "information intended for different second stations [is] transmitted at different power levels" in the common channel recited in independent claim 1. Accordingly, independent claims 1 and 17 are patentable over the combination of *Szalajski*, *Noshino* and *Derryberry*, and therefore reconsideration and withdrawal of the rejections under 35 U.S.C. §103 are requested, and a notice to that effect is earnestly solicited.

Independent claim 17 is the system claim associated with the implementation of independent method claim 1. Accordingly, independent system claim 17 is patentable over the

combination of *Szalajski*, *Noshino* and *Derryberry* for the reasons discussed above with respect to independent method claim 1.

New independent claims 89-91 have been added. These claims are directed to elements of the system and contain the same limitations recited in independent claim 1. Therefore, these claims are patentable for the reasons presented with respect to independent claim 1.

In view of the patentability of independent claims 1, 16, 17 and 89-97 for the reasons above, dependent claims 2-15, and 18-88 are all patentable over the prior art.

Based on the foregoing amendments and remarks, this application should be in condition for allowance. Early passage of this case to issue is requested.

Respectfully submitted,

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